

REMARKS

1. Applicant thanks the Examiner for the Examiner's comments which have greatly
5 assisted Applicant in responding.

Applicant has amended Claims 1, 66, 71-73, 80-83, 85, and 87. It should be appreciated
that Applicant has elected to amended said Claims solely for the purpose of expediting
the patent application process in a manner consistent with the PTO's Patent Business
10 Goals, 65 Fed. Reg. 54603 (9/8/00). In making this amendment, Applicant has not and
does not in any way narrow the scope of protection to which Applicant considers the
invention herein to be entitled and does not concede, in any way, that the subject matter of
such Claims were in fact taught or disclosed by the cited prior art. Rather, Applicant
reserves Applicant's right to pursue such protection at a later point in time and merely seeks
15 to pursue protection for the subject matter presented in this submission

2. **35 U.S.C. § 101.** The Examiner has rejected Claims 1-3, 6-11, 15, 17-31, 33-37,
39-49, 52-56, 59-68, and 71-88 under 35 U.S.C. §101, because the claimed invention is
directed to non-statutory subject matter, particularly, an abstract idea.

20 Applicant respectfully disagrees.

However, Applicant has amended independent Claims 1, 66, 71-73, 80-83, 85, and 87 to
cite a computer implemented method to overcome the rejection that no physical
25 transformation is performed and that no practical application in the technological arts is found.
Accordingly, Claims 1, 66, 71-73, 80-83, 85, and 87 and their respective dependent
claims overcome the rejection. Therefore, Applicant respectfully requests that the Examiner
withdraw the rejection under 35 U.S.C. §101.

- 30 3. **35 U.S.C. § 103(a).** The Examiner has rejected Claims 1-7 and 66-70 under 35
U.S.C. §103(a) as being unpatentable over Deming (U.S. Patent No. 4,823,264) in view
of Thomas *et al* (hereinafter Thomas, U.S. Patent No. 6,173,272) and Kitchen *et al*
(hereinafter Kitchen, U.S. Patent No. 6,289,322).

35 Applicant respectfully disagrees.

Applicant would like to point out features and methods of the claimed invention taken from the Specification to further clarify the invention, as follows.

5 It should be appreciated that one aspect of the invention separates an **ACH funds transfer into two distinct phases**, wherein a first phase, the sender provides information and in a second phase the receiver of the funds separately provides information, such information, when combined is sufficient to complete the transfer of funds via the ACH. (See page 6, lines 9-16).

10 In one embodiment, **a neutral third party coupled to a financial institution** collects such sender and receiver information and provides instructions to this financial institution to effect the appropriate ACH entries for the funds transfer (page 6, lines 16-18).

15 It should be appreciated that none of the prior art of record teach or contemplate a financial institution of a neutral third party for effecting the ACH transfers. It should further be appreciated that such novel financial institution and methods for use provides clear advantages to users of the invention not obtained from the prior art of reference, described further hereinbelow.

20 It should be appreciated that such neutral third party, or host system, maintains a **financial account** at the coupled financial institution, which is used as an intermediary storage of funds, while the claimed invention performs other functionality, such as analyzing sender fraud and reducing other credit risk of sender, for example. To wit, **the host system is in communication with its own financial institution at which it maintains an**
25 **account**. The host system provides an instruction to its financial institution, requesting it to collect the specified transfer amount from the sender's account. The host system's financial institution executes an ACH debit, specifying the sender's account number and routing/transit number as the source account, the specified transfer amount, and the target account, which is that of the host system. The ACH network effects this debit, and requests
30 withdrawal of the transfer funds from the sender's account, **transferring these funds to the host system's account** (page 7, lines 11-20).

It should be appreciated that these steps of contacting the recipient and obtaining the recipient's routing and transit numbers occur before or after the above steps of the host
35 system initiating **the first ACH transfer**. After the host system has received the recipient's account designation information, it provides a second instruction to its financial

institution, requesting the financial institution to transfer the specified transfer amount from the host's account to the recipient's account (page 9, lines 5-11).

Because of the unique features and mechanism provided by the claimed invention, the claimed invention provides many advantages, some of which are cited in the Specification. Some advantages provided by the claimed invention and not provided nor contemplated by the prior art of reference is are as follows:

o because of the low cost of the ACH transfers, the business managing the host system can price this service at a very reasonable price, well below the current cost of wire transfers, or credit card service fees and interest rates. The service may even be provided for free, with revenue obtained from advertisements placed on the web site used by the host to obtain the transaction information (page 10, lines 5-9);

o neither the sender nor the recipient has to be previously registered with its financial institution (or with the business managing the host system) prior to the transaction to participate in ACH transfers (page 10, lines 10-12);

o different types of funds transfer include: payments to individuals, payments to businesses, payments to tax authorities, transfers between the sender's own accounts at different financial institutions, payments for online purchases, and online bill payment (page 11, lines 1-3);

o the present invention provides means for reducing the various types of risk associated with these funds transfers. One of the inherent risks of the ACH system is credit risk. (See page 13, lines 19-21). If the sender did not have sufficient funds, then the host system's financial institution will deduct the transfer amount from the host's account to cover the transfer. However, assuming the host system has already transferred the funds to the recipient, then the host bears the loss of the transfer funds. This places the host system at risk for various types of fraud (e.g. false account numbers) or collusion (page 14, lines 8-12).

o The present invention reduces credit risk by novel uses of automated mechanisms having access to the sender's account balance, such as the Point of Sale (POS) system. The POS allows access to the current account balance and the last five or ten transactions in an account. This feature of the present invention operates as follows: The first ACH debit

is effected to transfer the funds from the sender's source account to the host system's account. After the sender's financial institution clears the first ACH debit in its overnight cycle, the host system checks the available funds balance of the sender's source account using an automated system, such as the POS system (page 15, lines 1-8).

o In a further credit risk reduction method, the host does not contact the recipient until at least one day after the first ACH debit is cleared (page 15, lines 22-23).

o Provided source account activity information is compared with similar activity information obtained from online systems having authorized access to information about the source account (page 16, lines 12-14). Advantageously, this aspect of the invention enables the host to verify that the sender controls the source account without needing any of the traditional and more cumbersome authentication means, such as sender signature, paper check provided by the sender, ID card physically checked in person, or pre-existing "secret" knowledge of the sender (e.g. birthplace or mother's maiden name), see page 17, lines 15-19).

In summary, it should be appreciated that in one embodiment, the claimed invention includes a host system that is communicatively coupled to its financial institution in order to provide instructions relating the ACH entries, as stated hereinabove (page 17, lines 20-22). None of the prior art references contemplate such system or method of use. Consequently, none of the prior art references contemplate using such a host system that is communicatively coupled to its financial institution to compare provided source account activity information with provided activity information obtained from online systems having authorized access to information about the source account. It should be appreciated that such online systems comprise a second and different online system via the host system, which are separate from the sender's own account provided by the sender. To wit, in Schrader (C 14, L12 to L19): "Each record in the transaction data is marked as being either in the online statement 150, the mini checkbook 181, or the out box 167, and as being either reconciled or unreconciled. This marking allows for subsequent auto-reconciliation and reporting. Some transactions in the online statement 150 may be unreconciled if the user did not enter them first in the mini checkbook 181." It is apparent in Fig. 8 that direct access to the source account is shown, and not a different and separate access by the host system and via a

second current account activity as provided by the online system as in the claimed invention.

Claims 1-3 and Claims 4-7:

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Applicant has canceled Claim 56 without prejudice and has incorporated it into independent Claim 1. Applicant is of the opinion that in view of the argument hereinabove that Claim 1 and, hence, its dependent claims are in allowable condition. Accordingly, Applicant requests that the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

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Claims 66-70

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Applicant has canceled Claim 67 without prejudice and has incorporated it into independent Claim 66. Applicant is of the opinion that in view of the argument hereinabove that Claim 66 and, hence, its dependent claims are in allowable condition. Accordingly, Applicant requests that the Examiner withdraw the rejection under 35 U.S.C. § 103(a).

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4. **35 U.S.C. § 103(a).** The Examiner has rejected Claims 8-65 and 71-101 under 35 U.S.C. §103(a) as being unpatentable over Deming, Thomas, Kitchen, and further in view of Schrader *et al* (hereinafter Schrader, U.S. Patent No. 5,903,881).

Applicant respectfully disagrees.

Claims 8-65

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The rejection of Claims 8-65 under 35 U.S.C. §103(a) is deemed moot in view of Applicant's comments concerning Claim 1, above. Claims 8-65 are dependent upon Claim 1, which is in allowable condition. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

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Claims 71-72

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Claim 71 has been amended similarly to Claim 1. Therefore, in view of Applicant's comments concerning Claim 1 hereinabove, Applicant is of the opinion that amended Claim 71 and Claim 72 are in allowable condition. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

Claims 73-83

5 The rejection of Claims 73-83 under 35 U.S.C. §103(a) is deemed moot in view of Applicant's comments concerning a second current account activity as provided by the online system discussed hereinabove. Claims 73-83 are deemed in allowable condition. Therefore, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

10 Claims 85-101

Applicant has amended the independent Claims to incorporate the third party financial account and means for use as discussed hereinabove. Therefore, Applicant is of the opinion that Claims 85-101 are in allowable condition. Accordingly, Applicant respectfully
15 requests that the Examiner withdraw the rejection under 35 U.S.C. §103(a).

CONCLUSION

20 Based on the foregoing, Applicant considers the present invention to be distinguished from the art of record. Accordingly, Applicant earnestly solicits the Examiner's withdrawal of the rejections raised in the above referenced Office Action, such that a Notice of Allowance is forwarded to Applicant, and the present application is therefore allowed to issue as a United States patent.

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Respectfully Submitted,

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